Official Amendment
Serial No. 09/779,273
Docket No. – BAT 0033 PA

REMARKS

Claims 1-6, 8-18, 30-39, 83 and 84 remain pending in the present application. Claims 1, 6, 8-18, 30-38, 83 and 84 are rejected. Claims 2-5 are objected to. By the present amendment, claim 1 has been canceled, claims 2-6, 8, 13, 30, 32, 36 and 83 have been amended, and new claims 85-95 have been added.

In the Office Action, claims 1, 6, 8-18, 30-39, 83 and 84 were rejected as being unpatentable over Riebel et al. (WO 95/04779) in view of publications by Clay et al., Hse (Abstract), or Vijayendran. The Examiner noted that the claims are rejected as set forth in the previous Office Action, Paper No. 8. However, the Examiner also noted that claims 2-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Examiner further noted that although the applicants' arguments of March 28, 2003 are deemed unpersuasive of patentability, the argument relating to the amounts of resin/soy protein hydrolysate is persuasive and thus claims 2-5 patentably defines over the prior art.

In accordance with the Examiner's suggestion, by the present amendment, applicants have rewritten claim 2 in independent form including all of the limitations of claim 1, which has been canceled. Accordingly, claims 3-6, 8, 13, 30, 32 and 36 have been amended to reflect their dependency on claim 2. In addition, claim 6 has been amended for sake of clarity, and claim 83 has been amended in step (b) to define mixing an amount of resin binder . . . that is between about 2% and about 15% of the dry weight of the cellulosic material. Claims 85-95 have been added and are dependent on amended claim 2. No new matter has been added.

To establish a *prima facie* case of obviousness, *inter alia*, all of the claimed limitations must be taught or suggested by the prior art. MPEP 2143.03 (citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)). Riebel et al. do not teach or

Received from < 9372230724 > at 8/5/03 12:27:06 PM [Eastern Daylight Time]

suggest the invention identified in independent claims 2 and 83 as amended herein. As noted by the Examiner, Riebel et al. do not disclose a composite comprising a cellulosic material and an amount of resin binder that is between about 2 and about 15% of the dry weight of the cellulosic material. Instead, Riebel et al. teach employing close to equal amounts of legume-based resin and fiberous cellulosic solids (40-56%) in the production of particulate materials having a moisture content of about 55-75% by weight (see Riebel et al. at page 8, lines 14-17 and 25-26). Riebel et al. teach away from and thus cannot be relied upon to support the instant rejection. The rejected dependent claims contain all of the limitations of the base claim to which they depend. Accordingly, applicants respectfully request that the rejection be withdrawn, as in light of the amendments made herein, the Examiner has not presented a *prima facie* case of obviousness.

Received from < 9372230724 > at 8/5/03 12:27:06 PM [Eastern Daylight Time]

Official Amendment
Serial No. 09/779,273
Docket No. – BAT 0033 PA

Conclusion

Applicants respectfully submit that, in view of the above amendments and remarks, the application is in condition for allowance. The Examiner is encouraged to contact the undersigned to resolve efficiently any formal matters or to discuss any aspects of the application or of this response. Otherwise, early notification of allowable subject matter is respectfully solicited.

Respectfully submitted,

KILLWORTH, GOTTMAN, HAGAN & SCHAEFF, L.L.P.

By _____
Brian L. Smiler
Registration No. 46,458

One Dayton Centre
One South Main Street, Suite 500
Dayton, Ohio 45402-2023
Telephone: (937) 223-2050
Facsimile: (937) 223-0724
E-mail: smilerb@kghs.com
BLS

Received from < 9372230724 > at 8/5/03 12:27:06 PM [Eastern Daylight Time]